

STATUS OF THE CLAIMS

Claims 1 – 94 are pending.

Claims 34 – 74 have been allowed.

Claims 1 – 33, 75 – 94 stand rejected.

Claims 1, 7 – 10, 12 – 16, 32, 75, 80 – 82 have been amended without prejudice herein.

REMARKS

Reconsideration of the present Application is respectfully requested.

Applicant gratefully acknowledges the Examiner's indication that Claims 34 – 74 have been allowed.

Claims 1, 7, 8-10, 12-15, 32, 75, 76, 80-82 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-33, and 75-94 have been rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for specific food product contained in a container, does not reasonably provide enablement for the food product as claimed.

Applicant respectfully deems these rejections overcome for at least the following reasons.

Applicant has amended the Claims without prejudice to more clearly point out and claim the present invention. Applicant has amended Claim 1 to read, in part, "A ready-to-use food product being suitable for storage in a container". Applicant has further amended Claim 1 to read, in part, "wherein, said oil separates said batter and leavening agent while stored in said container."

Applicant has also amended Claim 7 to read, in part, “wherein said at least one leavening agent”. Applicant has further amended Claim 7 to read, in part, “at least partially coated”.

Applicant has amended Claims 8, 9, 80-82 to read, in part, “at least partially coated”.

Applicant has amended Claim 10 to read, in part, “at least partial coating material”.

Applicant has amended Claim 12 to read, in part, “wherein, when stored in said container, said oil forms a layer”.

Applicant has amended Claims 13-16 to each read, in part, “wherein, when stored in said container”.

Applicant has amended Claim 32 to read, in part, “wherein, when stored in said container, said oil forms droplets”.

Applicant has amended Claim 75 to read, in part, “wherein, when stored in a container, in a first state”.

Applicant has also amended certain of the Claims to correct inadvertent typographical errors.

Claim 76, in particular, depends from Amended Claim 75, and thus now contains a proper antecedent basis.

Applicant respectfully submits that, in addition to more distinctly pointing out and claiming what Applicant regards as the invention, these changes also render the rejection in the present office action overcome.

Examiner requests clarification of the phrase “at least”, when used in the phrase “at least partially encapsulate” in Claim 7. Applicant brings attention to the Specification, where on page 12, lines 8 and 9, by way of non-limiting example only, wherein it recites, “the leavening base component is composed of either fully or partially coated or encapsulated sodium bicarbonate or other suitable base”. Thus, the Specification clearly provides support for partially coated and fully coated leavening base components, which are both, “at least partially coated”.

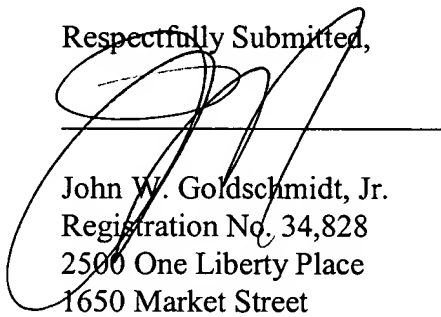
Applicant thus respectfully submits that Amended Claims 1,7 – 10, 12 – 16, 32, 75, 80 – 82, as well as Original Claims 2-6, 11, 17-31, 33, 76-79, and 83-94 fully satisfy all requirements of 35 U.S.C. § 112.

Conclusion

Applicant respectfully requests reconsideration of the present Application in light of the reasons set forth herein, and a Notice of Allowance for all pending claims is earnestly solicited. Should there be any questions or outstanding matters, the Examiner is cordially invited and requested to contact Applicant’s undersigned attorney at his number listed below.

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Respectfully Submitted,



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